IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CWP NO. 17119 of 2006

DATE OF DECISION: 30.10.2006

Mukhtiar Singh ....Petitioner.

Versus

State of Punjab and others ....Respondents.

CORAM: HON'BLE MR.JUSTICE J.S. KHEHAR
HON'BLE MR. JUSTICE S.D. ANAND

PRESENT: Mr. Gurnam Singh, Advocate for the petitioner.

J.S. Khehar, J.

The petitioner Mukhtiar Singh was appointed as a Special Police Officer (hereinafter referred to as SPO) in the Punjab Police on 2.2.1992. Following directions issued by this Court in various writ petitions, for creating a channel of recruitment of SPOs as Constables; the Police Department incorporated a channel of recruitment for SPOs as Constables.

The name of the petitioner was recommended by the Superintendent of Police, district Majitha, for appointment as a Constable. As such, the claim of the petitioner was duly considered. During the course of his physical measurements on 8.4.2002, his height was determined as 5 feet 4½ inches and chest as 33½ inches x 35½ inches.

It would be pertinent to mention that the minimum height

statutorily prescribed for appointment against the post of Constable is 5 feet 7 inches. As such, it is apparent that the petitioner's height was short by 2½ inches. So as to overcome the aforesaid impediment, the petitioner addressed a representation to the Director General of Police, Punjab, seeking relaxation of height. Interestingly, the relaxation sought was for 2 inches. Having considered representation, the Director General of Police, allowed the petitioner Mukhtiar Singh relaxation in height to the extent of 2 inches on9.4.2002. On the strength of the aforesaid relaxation granted to him, the petitioner now claims appointment against the post of Constable by asserting, that the relaxation granted to him by the Director General of Police on 9.4.2002, does away with the solitary reason for not appointing him as a Constable. Since the aforesaid claim made by the petitioner was not being considered by the authorities, the petitioner moved this Court by filing CWP No.10111 of 2005. The aforesaid writ petition was disposed of by an order dated 8.7.2005, requiring the respondents, to adjudicate the claim of the petitioner for appointment to the post of Constable (as had been raised by him through a representation) after affording an opportunity of hearing to him.

In furtherance of the directions issued by this Court on 8.7.2005, the Director General of Police, Punjab, by an order dated 13.2.2006 rejected the claim of the petitioner for appointment against the post of Constable. It is the instant order dated 13.2.2006, which is subject matter of challenge at the hands of the petitioner, through the instant writ petition.

It is the vehement contention of the learned counsel for the

petitioner, that the petitioner had been granted relaxation, for the shortage of his height, by the Director General of Police on 9.4.2002. And as such, if there was any shortage of height, for appointment to the post of Constable, the same stood already relaxed, by the competent authority. It is, therefore, the contention of the learned counsel for the petitioner, that the petitioner cannot be deprived of appointment as Constable, on the basis of shortage of height.

We have perused the impugned order. The same clearly depicts that the petitioner's height was short by 2½ inches, whereas, the relaxation granted to him was only for 2 inches. It is, therefore, apparent, that even if the order passed by the Director General of Police on 9.4.2002, on the issue of relaxation of height qua the petitioner is taken in his favour, still the petitioner was short of height, as his shortage of height was of 2½ inches, whereas, the relaxation granted to him was only for 2 inches. It is, therefore, not possible for us to accept that the shortage of height of the petitioner, was fully condoned, by the Director General of Police (by his order dated 9.4.2002).

In view of the above, we find no infirmity in the impugned order dated 13.2.2006, whereby, the claim of the petitioner for appointment as a Constable has been rejected.

At this juncture, it would also be pertinent to notice that all the SPOs, who did not satisfy one or the other of the physical conditions prescribed for appointment against the posts of Head Constable, were transferred to the Punjab Home Guards department in May 2005. Consequent upon the passing of the aforesaid order, the petitioner has

been serving as a Guard in the Punjab Home Guards department since May 2005.. Having accepted the aforesaid transfer and having not challenged the same, it is not open at this stage for the petitioner to claim appointment against the post of Constable.

For the reasons recorded hereinabove, we find no merit in this petition and the same is, accordingly, dismissed.

(J.S. Khehar)
Judge

(S.D. Anand)
Judge

October 30, 2006.
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